IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1655 of 1991
with
SPECIAL CIVIL APPLICATION No 1656 of 1991
and
SPECIAL CIVIL APPLICATION No 1657 of 1991

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DHEDIYABHAI BHIKHABHAI

Versus

JALBHAI FARAMJI

Appearance:

MR PP KINARIWAL for MR BB NAIK for Petitioners

MR DU SHAH for Respondent

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 16/01/2002

COMMON ORAL JUDGEMENT

#. Heard the learned advocates.

#. These three writ petitions arise of the similar cause of action and pertain to the same lands. These petitions are, therefore, with the consent of the learned advocates, disposed of by this common judgment.

#. The petitioner in each of these three petitions claim to be a tenant over a part of the land bearing Survey Nos.74 and 75 Block No.97 admeasuring 18-Acres and 2-Gunthas situated at Village Mahuva, Taluka - District Surat. The petitioners, therefore, filed application under Section 70(b) of the Bombay Tenancy and Agricultural Lands Act, 1948 (hereinafter referred to as 'the Act') claiming tenancy over pieces of land of above referred lands Survey Nos.74 and 75 in Tenancy Case No.200/74. All the petitioners claimed that they were cultivating the concerned parts of the said land for eleven years. The said claim of tenancy was accepted by the Mamlatdar and A.L.T. under his judgment and order dated 16th April, 1975, which was confirmed by the Deputy Collector, Surat on 15th April, 1976 in Tenancy Appeal No.18/76. The said order of 15th April, 1976 was set aside by the Gujarat Revenue Tribunal on 1st November, 1976. The Appeal was remitted to the Deputy Collector, Vyara for hearing and decision afresh. The Deputy Collector, Vyara, under his judgment and order dated 30th June, 1978 set aside the order dated 16th April, 1975 of the Mamlatdar and A.L.T. and directed the Mamlatdar and A.L.T. to segregate the three claims and to decide the same afresh. Since then, the claim of the tenancy made by each of the petitioners were registered as Tenancy Case Nos.24/79, 28/79 and 29/79. The claim of tenancy made by each of the applicants was rejected by the Mamlatdar and A.L.T. under his judgments and orders dated 10th August, 1979. Feeling aggrieved, the said applicants preferred Appeals Nos.74/79, 75/79 and 76/79 before the Deputy Collector, Vyara. The said three appeals were dismissed by the Deputy Collector, Vyara under his judgments and orders dated 19th November, 1979. Feeling aggrieved, each of the petitioners preferred Revision Application before the Gujarat Revenue Tribunal. The said Revision Applications Nos.TEN.B.S.348/82, 349/82 and 350/82 were dismissed by the learned Tribunal under the common judgment and order dated 24th December, 1990. Feeling aggrieved, the petitioners have preferred the present writ petitions.

#. Both the authorities below and the learned Tribunal have recorded a concurrent finding that each of the applicants failed to establish that he had been

cultivating part of the land Survey Nos.74 and 75 as tenant and was giving portion of the crop to the respondent, the landlord. On the contrary, it has been recorded that the landlord, the respondent no.1 was cultivating the said land. The learned advocate has failed to establish that the finding recorded by the Tribunal and the authorities below is errorneous. In view of the said finding, the claim of tenancy made by the petitioners should fail.

#. The writ petitions are, therefore, dismissed. Rule nisi issued in each of the petitions is discharged. Interim relief is vacated. The parties shall bear their own costs. The Registry shall maintain copy of this order on the records of each petition.

(Ms. R.M. Doshit, J.)
/sakkaf